

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION**

CIVIL ACTION NO.: 5:98CV92

JAMES R. BARNES, and wife)
DOROTHY G. BARNES, <i>et al.</i>,)
)
This document pertains to:)
CURTIS H. CUTHBERTSON,)
Administrator of the Estate of HOY V.)
CUTHBERTSON, Deceased,)
)
Plaintiffs,)
)
vs.)
)
ACandS, INC., et al., (and D.B. Riley,)
Inc.))
)
Defendants.)
)

CONSENT ORDER OF DISMISSAL OF DEFENDANT

THIS MATTER is before the Court on motion of the Plaintiff Curtis H. Cuthbertson, Administrator of the Estate of Hoy V. Cuthbertson, Deceased,¹ and Defendant D. B. Riley, Inc, f/k/a Riley Stoker Corporation, by and through counsel, pursuant to Rule 41 (A)(2), Federal Rules of Civil Procedure, for an Order dismissing, without prejudice, all claims against said Defendant.

For cause shown, and it appearing the parties have reach agreement as to the claims presented in this action,

IT IS, THEREFORE, ORDERED that the motion is **ALLOWED**, and the claims of Plaintiff Curtis H. Cuthbertson, Administrator of the Estate of Hoy V. Cuthbertson, Deceased,

¹ The Parties note that this dismissal effectively dismisses D.B. Riley, Inc. for ALL Plaintiffs to this action.

against the Defendant D. B. Riley, Inc, f/k/a Riley Stoker Corporation, are hereby **DISMISSED**
WITHOUT PREJUDICE.

Signed: March 22, 2007

A handwritten signature in black ink, appearing to read "Lacy H. Thornburg", written over a horizontal line.

Lacy H. Thornburg
United States District Judge



PREPARED AND SUBMITTED BY:

/s/ Teresa Lazzaroni

Teresa Lazzaroni
NC State Bar No. 13582
HAWKINS & PARNELL, LLP
4000 SunTrust Plaza
303 Peachtree Street, N.E.
Atlanta, Georgia 30308
Telephone: (404) 614-7445
Telecopier: (404) 614-7500
tlazzaroni@hplegal.com

CONSENTED TO BY:

Attorneys for Plaintiffs:

/s/ Janet Ward Black
Janet Ward Black
WARD BLACK LAW
208 West Wendover Avenue
Greensboro, North Carolina 27401
jwblack@wardblacklaw.com

John E. Herrick
MOTLEY RICE LLC
P.O. Box 1792
Mt. Pleasant, South Carolina 29465
jherrick@motleyrice.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION**

CIVIL ACTION NO.: 5:98CV92

**JAMES R. BARNES, and wife
DOROTHY G. BARNES, *et al.*,**

Plaintiffs,

vs.

**ACandS, INC., et al., (and D.B. Riley,
Inc.)**

Defendants.

CIVIL ACTION NO.:

5:98CV92

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2007I electronically filed the foregoing
Consent Order of Dismissal of Defendant with the Clerk of Court using the CM/ECF system
which will send notification of such filing to the following:

jwblack@wardblacklaw.com
jherrick@motleyrice.com
ctl@johnsonandlambeth.com
mthomas@maupintaylor.com
ecneill@hplegal.com
psmith@vwlawfirm.com
swilliamson@vwlawfirm.com
eandp@bellsouth.net
tbouch@leathbouchlaw.com
robert.meriwether@nelsonmullins.com

This 22nd day of March, 2007.

/s/ *Teresa Lazzaroni*

Teresa Lazzaroni

NC State Bar No. 13582

HAWKINS & PARNELL, LLP

4000 SunTrust Plaza

303 Peachtree Street, N.E.

Atlanta, Georgia 30308

Telephone: (404) 614-7445

Telecopier: (404) 614-7500

tlazzaroni@hplegal.com